

**Appl. No.** : **10/771,283**  
**Filed** : **February 2, 2004**

## **REMARKS**

### **Amendments to the Claims**

Claims 1-7 are pending in the application. Claim 1 has been amended, and Claims 1-7 remain pending.

### **Claim Objections**

Claim 1 has been amended in accordance with the Examiner's suggestion.

### **Rejection of Claims under 35 U.S.C. § 103(a)**

Claims 1, 2 and 4-6 are rejected under 35 U.S.C. §103(a) as being unpatentable in light of U.S. Pat. No. 5,437,982 to Catterall et al. ("Catterall") in view of Connolly et al., Biosensors and Bioelectronics, 1990 5: 223-234 ("Connolly").

The Examiner acknowledges that Catterall does not show external electrodes. For a disclosure of external electrodes, the Examiner cites Connolly. Independent Claim 1 has been amended to require that the electric field pulses are "substantially spatially uniform over an area of observation of said host cells." Connolly et al. teach away from this configuration where they state at the bottom of page 224 that "the exposed electrode area had to be small enough to allow detection of signals from single cells." Thus, the electrodes of Connolly are extremely small and close together as illustrated in Figure 1 of that reference. They will not produce a uniform field over an area of observation of a multiwall plate as set forth in Claim 1.

The remaining prior art of record does not cure this deficiency. Thus, Applicants respectfully request that the Examiner's rejection of independent amended Claim 1 be reconsidered and withdrawn. Claims 2-7 are dependent on amended Claim 1, and it is respectfully submitted that these claims are also patentable for at least the same reasons as set forth above with regard to amended Claim 1.

### **Provisional Rejection of Claims for Double Patenting**

Claims 1-7 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claims 1-8 of copending Application Serial No.

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11/444,214. As set forth above, the applicant's believe all other rejections made by the Examiner are overcome with this amendment. In accordance with M.P.E.P. 804(I)(B)(1), and as this application is the earlier filed of the two applications that the Examiner cites as conflicting, the applicants respectfully request that the Examiner's provisional double patenting rejection be withdrawn. Should a double patenting rejection continue to be made in the later filed application, it will be addressed at that time.

### **CONCLUSION**

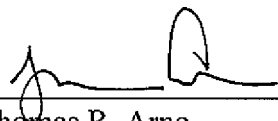
The Applicants have endeavored to address all of the Examiner's concerns as expressed in the previous Office Action. Accordingly, arguments in support of the patentability of the pending claim set are presented above. In light of these amendments and remarks, reconsideration and withdrawal of the outstanding rejections is respectfully requested.

If any issues remain that could be resolved by telephone, the Examiner is invited to call the undersigned directly. Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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